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## NOTICE OF ALLOWANCE AND FEE(S) DUE

22850 7590 02/13/2009

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER

DOTE, JANIS L

ART UNIT

PAPER NUMBER

1795

DATE MAILED: 02/13/2009

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/670,320      | 09/26/2003  | Yohichiroh Watanabe  | 242938US0           | 5358             |

TITLE OF INVENTION: TONER, DEVELOPER INCLUDING THE TONER, AND METHOD FOR FIXING TONER IMAGE

| APPLN. TYPE    | SMALL ENTITY | ISSUE FEE DUE | PUBLICATION FEE DUE | PREV. PAID ISSUE FEE | TOTAL FEE(S) DUE | DATE DUE   |
|----------------|--------------|---------------|---------------------|----------------------|------------------|------------|
| nonprovisional | NO           | \$1510        | \$300               | \$0                  | \$1810           | 05/13/2009 |

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.**

**THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.**

**HOW TO REPLY TO THIS NOTICE:**

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**

## PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail Stop ISSUE FEE**  
**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, Virginia 22313-1450**  
**or Fax (571)-273-2885**

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

22850      7590      02/13/2009

**OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.**  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

### **Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/670,320      | 09/26/2003  | Yohichiro Watanabe   | 242938US0           | 5358             |

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| nonprovisional | NO           | \$1510         | \$300               | \$0                  | \$1810           | 05/13/2009 |
| EXAMINER       | ART UNIT     | CLASS-SUBCLASS |                     |                      |                  |            |
| DOTE, JANIS L  | 1795         | 430-108400     |                     |                      |                  |            |

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.  
 "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,  
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 \_\_\_\_\_  
2 \_\_\_\_\_  
3 \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent):  Individual  Corporation or other private group entity  Government

4a. The following fee(s) are submitted:

- Issue Fee  
 Publication Fee (No small entity discount permitted)  
 Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- A check is enclosed.  
 Payment by credit card. Form PTO-2038 is attached.  
 The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.  b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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| OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.<br>1940 DUKE STREET<br>ALEXANDRIA, VA 22314 |             | DOTE, JANIS L        |                     |                  |
|  |             | ART UNIT             |                     | PAPER NUMBER     |
|  |             | 1795                 |                     |                  |
| DATE MAILED: 02/13/2009  |             |                      |                     |                  |

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)

(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

|                               |                        |                     |  |
|-------------------------------|------------------------|---------------------|--|
| <b>Notice of Allowability</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                               | 10/670,320             | WATANABE ET AL.     |  |
|                               | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                               | Janis L. Dote          | 1795                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to Dec. 1, 2008.
2.  The allowed claim(s) is/are 1,8,10,21-23, and 26-28.
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some\*    c)  None    of the:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date See Continuation Sheet
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

Continuation of Attachment(s) 3. Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date: corrected 5/31/05 (3 sheets); corrected 08/31/06; 1/15/09.

1. The examiner acknowledges the cancellations of claims 13 and 14 and the amendments to claims 8, 10, 22, 23, 27, and 28 filed on Dec. 1, 2008. Claims 1, 8, 10, 21-23, and 26-28 are pending.

2. The reference JP 63-131149 listed on page 2 of the examiner-initialed-form PTO-1449 filed on May 31, 2005, which is attached to the office action mailed on Nov. 9, 2005, was inadvertently not crossed-out by the examiner. That form PTO-1449 has been corrected and is attached to this office action.

The examiner crossed-out the reference JP 63-131149 listed on page 2 of the form PTO-1449 filed on May 31, 2005 because applicants did not provide a copy of JP 63-131149. Applicants provided a copy of JP 2750853 B published on May 13, 1998. JP 2750853 B is the application published after examination version of JP 63-131149. The examiner has considered and listed the reference JP 2750853 B on the form PTO-892, which is attached to this office action.

The examiner corrected the examiner-initialed-form PTO 1449 filed on Aug. 31, 2006, that was attached to the office action mailed on Oct. 20, 2006 (and corrected at that time), by

providing the missing publishing date of the esp@cenet abstract of WO 01/60893 A1, listed under "Other References."

The examiner has considered the copending US application listed on the "List of related cases" in the Information Disclosure Statement filed on Jan. 15, 2009.

#### **REASONS FOR ALLOWANCE**

3. The following is an examiner's statement of reasons for allowance:

The rejections of claims 13, 14, 23, and 27 under 35 U.S.C. 112, second paragraph, set forth in the office action mailed on Sep. 11, 2008, paragraph 6, have been withdrawn in response to the cancellations of claims 13 and 14 and the amendments to claims 23 and 27 filed on Dec. 1, 2008.

The objection to claims 8, 10, and 22 set forth in the office action mailed on Sep. 11, 2008, paragraph 7, has been withdrawn in response to the amendments to claims 8, 10, and 22 filed on Dec. 1, 2008.

The rejections under 35 U.S.C. 103(a) of claim 28 over US 2003/0138717 A1 (Yagi) combined with the other cited references, and of claim 28 over US 2003/0152859 A1 (Emoto'859) combined with other cited references, set forth in the office action mailed Sep. 11, 2008, paragraphs 10 and 13, respectively,

have been withdrawn in response to the amendment to claim 28 filed on Dec. 1, 2008. With that amendment applicants have perfected their claim to foreign priority under 35 U.S.C. 119 for the subject matter recited in instant claim 28. The revised certified English-language translation of the priority document, Japanese Patent Application 2002-365782, filed on Jun. 27, 2008, provides antecedent basis as set forth under 35 U.S.C. 112, first paragraph, for the subject matter recited in instant claim 28. Accordingly, both Yagi and Emoto'859 are no longer prior art with respect to the subject matter recited in claim 28.

The rejection of claims 13 and 14 under 35 U.S.C. 103(a) over US 2003/0152859 A1 (Emoto) combined with the other cited reference, set forth in the office action mailed on Sep. 11, 2008, paragraph 12, has been mooted by the cancellations of claims 13 and 14.

The terminal disclaimer filed on Dec. 1, 2008, disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent No. 7,396,630 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Accordingly, the rejections of claims 1, 8, 10, 13, 14, 21-23, 27, and 28 on the ground of nonstatutory obviousness-type

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double patenting over claims 1-21 of US 7,396,630 (B2) (Watanabe' 630), set forth in the office action mailed on Sep. 11, 2008, paragraphs 15 and 16, respectively, have been withdrawn.

The provisional rejections of claims 1, 8, 10, 13, 14, 21-23, 26, and 27 on the ground of nonstatutory obviousness-type double patenting over claims 26, 29, 33, 35, 37, 40, 41, and 48-51 of copending Application No. 11/475,165 set forth in the office action mailed on Sep. 11, 2008, paragraphs 18 and 19, respectively, have been withdrawn for the reasons given by applicants at page 12 of the response filed on Dec. 1, 2008.

Claims 1, 8, 10, 21-23, and 26-28 are allowable for the reasons discussed above and for the reasons discussed in the office action mailed on Sep. 11, 2008, paragraph 4.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janis L.

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Dote whose telephone number is (571) 272-1382. The examiner can normally be reached Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Mark Huff, can be reached on (571) 272-1385. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry regarding papers not received regarding this communication or earlier communications should be directed to Supervisory Application Examiner Ms. Sandra Sewell, whose telephone number is (571) 272-1047.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Janis L. Dote/  
Primary Examiner, Art Unit 1795

JLD  
Feb. 9, 2009